City Council Minutes – August 7, 2017

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of August 7, 2017 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams, Liz Lovelett, Bruce McDougall and Matt Miller were present. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Public Works Committee: Mr. Johnson reported from the committee meeting earlier in the day regarding drainage in Marine Heights.

Personnel Committee: Mr. Miller reported from the committee meeting earlier in the evening at which the members discussed upcoming negotiations with the police and fire bargaining units whose contracts expire at the end of the year, as well as the Senior Center discussion scheduled later on the agenda.

Mr. Johnson reported from the Port/City Liaison meeting the prior Tuesday at which those present discussed the prilled sulfur agreement between the city and the Port, the port property redevelopment strategy analysis under way with Maul Foster & Alongi, ongoing work by the Port, city and EDASC on the Maritime Strategic Plan, and exploration of options for the Olson Building, possibly for workforce housing.

Mayor Gere reported that the prior week Elizabeth May, Member of Parliament representing the Saanich-Gulf Islands, visited Anacortes, recognized Anacortes for its Sister City relationship with Sidney, British Columbia, and also connected with Shannon Point Marine Center personnel to express support for environmental protection of the Salish Sea.

Mayor Gere reported that Maritime Strategic Plan interviews had identified what local marine businesses need to continue to be successful in the community and demonstrated a great deal of enthusiasm among the businesses.

Public Comment

No one present wished to address Council on any topic not already on the agenda.

Consent Agenda

Ms. Lovelett removed Item 5e, Contract Modification: Wastewater Treatment Plant Outfall Repair (13-020-SEW-004), from the Consent Agenda. Ms. Lovelett moved, seconded by Mr. Johnson, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

a. Minutes of July 24, 2017
b. Approval of Claims in the amount of: $802,724.20
c. Contract Modification: March Point Shoulder Widening (15-006-TRN-001)
d. Interlocal Agreement with Port of Anacortes for Emergency Repairs on Outfall

The following vouchers/checks were approved for payment:
EFT numbers: 85862 through 85944, total $679,471.90
Check numbers: 85945 through 86003, total $114,060.73
Wire transfer numbers: 218692 through 219746, total $14,577.78

e. Contract Modification: Wastewater Treatment Plant Outfall Repair (13-020-SEW-004)

Ms. Lovelett asked Public Works Director Fred Buckenmeyer for more information on the sizable increase in the contract. Mr. Buckenmeyer explained that the original $55K contract was for initial design and that the $105K modification was for final design and services during construction. He explained that this sequence of phasing was standard for this type of contract as the full scope of work for construction services is not typically known until the construction contract is awarded. Ms. Pickett moved, seconded by Mr. Johnson, to approve the contract modification to the wastewater treatment plant outfall repair. The motion carried unanimously by voice vote.

OTHER BUSINESS

Ordinance 3005: Wave Franchise Agreement

City Attorney Darcy Swetnam presented Ordinance 3005 granting Astound Broadband, LLC dba Wave a non-exclusive franchise for the transmission of telecommunications in, through, over and under city rights-of-way. Ms. Swetnam reported that this would supersede the prior franchise agreement with Wave following protracted negotiations due to a change in Wave's corporate structure. She briefly outlined the state and federal laws governing telecommunications services fees on telephone service, cable service and internet service and advised that the proposed franchise had been reviewed by legal counsel at Foster Pepper. Mr. Miller questioned the equity of charging franchise fees to Comcast but not to Wave. Ms. Swetnam explained the difference in the services offered by the two companies and the resulting difference in their coverage under state and federal law; she recommended against testing those laws in court.

Mr. Walters moved, eventually seconded by Mr. Johnson, to approve the franchise agreement as presented.

In response to a query from Mr. McDougall, Mr. Buckenmeyer highlighted the terms of the franchise agreement providing value to the city. Councilmembers discussed with staff the value of competition among service providers including the city's own planned fiber utility, whether the agreement could be modified to stipulate net neutrality, and the franchise provisions encouraging undergrounding of utilities.

Ms. Lovelett moved, seconded by Mr. Johnson, to table the motion for a week to find out if net neutrality could be written into the agreement.

Mr. Johnson suggested that Wave staff attend a Council meeting to respond to councilmember questions.

Mayor Gere invited members of the audience to comment on this agenda item.

Fred Miller representing Wave in Kirkland, Washington, said he would like to invite Wave's new investors to address Council and answer its questions. He reported that the new management was much more aggressive in competing with other cable companies and wanted to continue Wave's partnership with the city, offer the same free dark fiber connections it had provided to the city for the past eleven years, and improve broadband options to the extent allowed by federal rules. He said he doubted the city could have a voice in net neutrality but that he would find out from Wave's new investors what their position was on net neutrality. He said Wave does support fair and open access and was negotiating a separate agreement with the city in lieu of a franchise fee. Mr. Miller asked Council to take action on the franchise as soon as its questions were answered due to the time sensitive nature of the agreement.

Councilman Miller asked Ms. Swetnam to review Section 9c of the proposed agreement and address equity issues between providers.

Vote on motion to table: Ayes – Pickett, Adams, Lovelett, McDougall, Miller and Johnson. Nays – Walters. Motion carried.

Anacortes Senior Center Interlocal Agreement with Skagit County

Mr. Walters disclosed that as a fixed salary employee of Skagit County, one of the contracting parties to the agreement, under RCW 42.23.040 he had a remote interest in the agreement and for the city to enter into the agreement his vote could not be counted.

Ms. Swetnam presented an interlocal agreement with Skagit County regarding provision of community services at the Anacortes Senior Activity Center. She acknowledged the presence of ACAS staff and board members and summarized the maintenance, programming and staffing of the center. Ms. Swetnam's slide presentation was added to the packet materials for the meeting. She reported that in 2016 the ASAC Foundation had sought city assistance to better tailor programming to meet end user needs in Anacortes so the city and county began discussing how the city could take over management of some portion of the center. Ms. Swetnam summarized the current and proposed structure for programming management and funding. She highlighted key components of the proposed agreement which would go into effect September 5, 2017 and by which Skagit County would retain control and responsibility for nutrition programming and Anacortes would maintain the building, hire the director, and achieve local control of non-nutrition programming for local residents. Ms. Swetnam reported that Skagit County Commissioners had approved the interlocal agreement earlier in the day. She said that if Council were to also approve the agreement, a budget amendment would be presented for Council action at a future date.

Mr. Johnson asked to hear from Foundation members about why they felt this change was necessary. Joann Ashlock, president of ASAC Foundation board, said that the board had been working to effect this change for quite a while, believing that being under the city would allow more local control of the center and contribute to the Anacortes senior population in a more productive and efficient way. Michelle Pope, board member, said that the very strong and active board's efforts were sometimes thwarted by county management and that as the senior center grew into a wider community center it needed to be able to better advertise and communicate with center users. Ms. Pope added that the county commissioners were in support of the transition.

Ms. Lovelett spoke in support of the agreement. Mr. Miller concurred, saying that the few thousand dollars of additional expense would be well spent to leverage the fine work done by the board. Mr. Adams asked if the agreement included a CPI adjustment for the director salary support from Skagit County. Ms. Swetnam said that was not part of the agreement but that the established annual rate would comfortably provide for the director's salary and benefits during the term of the agreement.

Ms. Lovelett moved, seconded by Mr. Miller, to authorize the mayor to execute the Interlocal Cooperation Agreement between Skagit County and the city for provision of community services at the Anacortes Senior Activity Center. Vote: Ayes – Pickett, Adams, Lovelett, McDougall, Miller and Johnson. Abstain – Walters. Motion carried.

Blue Heron Circle Reservoirs Project Funding

Finance Director Steve Hoglund initiated a discussion of funding options for the Blue Heron Circle reservoirs project following the state legislature's failure to enact a capital budget and the resultant lack of funding for the DWSRF loan previously awarded to the city. Mr. Hoglund explained the Declaration of Official Intent to Reimburse Expenditures from Proceeds of Bonds included in the packet materials, in case funding by bond issue was voted by Council in the future. He said that he had been inclined to recommend a bond issue but had learned from the city's financial advisor earlier in the day that the state might rework the loan to allow it to be used as a refunding mechanism, in which case it could be used to

repay a short term loan or line of credit when a capital budget was eventually adopted. Mr. Hoglund cautioned that a capital budget was unlikely to be adopted for at least another year and the restructuring of the loans was also not guaranteed. Mr. Miller said the 1% DWSRF loan was clearly the best option and said the city just needed to arrange bridge funding until the capital budget was adopted. Mr. Hoglund warned that if the funding for the DWSRF loan was not approved in the next year, the city needed to have a financing plan in place showing that it was paying back any interfund loans within three years which would not be supported by water fund cash flow at the current water rates. He recommended issuing an interfund loan which would be repaid September 1, 2018 and that if no capital budget had been adopted at that point, issuing a bond to repay the interfund loan but he warned that bond rates might rise in the interim. Mr. Walters supported that strategy. Mr. Adams asked if reserve funds could be used. Mr. Hoglund recommended against using general fund emergency reserves. He said Council would need to make a decision by November in order to implement whichever funding strategy it chose. Ms. Lovelett requested that staff bring back a briefing listing each proposed funding option with financial impacts of each. Mayor Gere tasked Mr. Hoglund with providing that information at a future meeting.

There being no further business, at approximately 7:10 p.m. the Anacortes City Council meeting of August 7, 2017 was adjourned.